

PUBLIC CHAPTER NO. 523

SENATE BILL NO. 753

By McNally, Marrero

Substituted for: House Bill No. 1337

By Briley

AN ACT to amend Tennessee Code Annotated, Title 48, Chapter 101, Part 5, relative to solicitations for charitable purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 48-101-501(1), is amended by adding the following language to the end thereto:

The definition shall not be deemed to include any authorized individual who solicits, by authority of such organization, solely on behalf of a registered or exempt organization, or on behalf of an organization excluded from the definition of charitable organization;

SECTION 2. Tennessee Code Annotated, Section 48-101-501(2), is amended by adding the following language to the end thereto:

“Contribution” does not include bona fide fees, dues or assessments paid by members, provided that membership is not conferred solely as consideration for making a contribution in response to a solicitation;

SECTION 3. Tennessee Code Annotated, Section 48-101-501(6), is amended by adding the following language to the end thereto:

“Professional fund raising counsel” does not include a bona fide salaried officer, employee, or volunteer of a charitable organization;

SECTION 4. Tennessee Code Annotated, Section 48-101-501(11), is amended by deleting such subdivision in its entirety and adding the following language as new subdivision (11):

(11) “Commercial co-venturer” means any person who:

(A) Is organized for profit;

(B) Is regularly and primarily engaged in trade or commerce, other than in connection with soliciting for charitable or civic organizations or charitable purposes; and

(C) Conducts an advertised charitable sales promotion for a specified limited period of time.

SECTION 5. Tennessee Code Annotated, Section 48-101-501(12), is amended by deleting such subdivision in its entirety.

SECTION 6. Tennessee Code Annotated, Section 48-101-502(a), is amended by adding the following language as new subdivision (5):

(5) Political parties, candidates for federal or state office, and political action committees required to file financial information with federal or state election commissions.

SECTION 7. Tennessee Code Annotated, Section 48-101-502(a), is amended by adding the following language as new subdivision (6):

(6) Hospitals which are subject to regulation by the Tennessee Department of Health.

SECTION 8. Tennessee Code Annotated, Section 48-101-502(a), is amended by adding the following language as new subdivision (7):

(7) Any corporation established by an act of Congress of the United States that is required by federal law to submit annual reports of its activities to Congress containing itemized accounts of all receipts and expenditures after being fully audited by the Department of Defense.

SECTION 9. Tennessee Code Annotated, Section 48-101-502(d), is amended by deleting the words "of this part" in the first sentence and by substituting instead the language "pursuant to § 48-101-502(a)(2)".

SECTION 10. Tennessee Code Annotated, Section 48-101-502, is amended by adding a new subsection (e), as follows:

(e) Exemption from the registration requirements of this act shall not limit the applicability of other provisions of the act to a charitable organization.

SECTION 11. Tennessee Code Annotated, Section 48-101-503, is amended by deleting subsection (a) in its entirety and by substituting instead the following:

(a) The secretary of state may review registrations and enforce registration requirements for charitable organizations, professional fund raising counsel, and professional solicitors.

SECTION 12. Tennessee Code Annotated, Section 48-101-504(b), is amended by deleting the words "shall be verified under oath, and".

SECTION 13. Tennessee Code Annotated, Section 48-101-506(c), is amended by deleting the words "shall be verified under oath, and".

SECTION 14. Tennessee Code Annotated, Section 48-101-506(b)(2), is amended by deleting “three hundred thousand dollars (\$300,000)” and by substituting instead the language “five hundred thousand dollars (\$500,000)”.

SECTION 15. Tennessee Code Annotated, Section 48-101-506, is amended by deleting in its entirety subsection (b)(3).

SECTION 16. Tennessee Code Annotated, Section 48-101-506, is amended by adding the following language as new subsection (e) and by relettering the remaining subsections accordingly:

(e) For good cause shown, the secretary may extend the time for filing a renewal application for a period not to exceed ninety (90) days during which time the previous registration remains in effect. “Good cause” includes, but is not limited to, filing with the Internal Revenue Service an application for extension of time to file an exempt organization return.

SECTION 17. Tennessee Code Annotated, Section 48-101-507(a)(2), is amended by deleting the words “be eligible for registration or”.

SECTION 18. Tennessee Code Annotated, Section 48-101-507(a)(2), is amended by adding the following language thereto:

The professional solicitor shall maintain during each solicitation campaign and for three years after its completion the name and address of each employee, agent, or other person involved in the solicitation campaign.

SECTION 19. Tennessee Code Annotated, Section 48-101-507, is amended by deleting subsection (b) in its entirety.

SECTION 20. Tennessee Code Annotated, Section 48-101-507(c)(1), is amended by deleting the language “, a bond” from the last sentence of the subdivision.

SECTION 21. Tennessee Code Annotated, Section 48-101-507(c)(2), is amended by deleting from the first sentence the words “under oath or affirmation”.

SECTION 22. Tennessee Code Annotated, Section 48-101-507, is amended by deleting subsection (c)(3) in its entirety.

SECTION 23. Tennessee Code Annotated, Section 48-101-507(d)(1), is amended by deleting from the third sentence the words “under oath”.

SECTION 24. Tennessee Code Annotated, Section 48-101-508, is amended by deleting subsection (a) in its entirety and by substituting instead the following:

(a) The division shall examine each registration statement and supporting documents filed by all applicants and shall determine whether the registration requirements are satisfied. If the division determines that the registration requirements are not satisfied, the department must notify the applicant within ten (10) working days of its receipt of its registration statement or the registration statement is deemed to be approved. Within seven (7) days after receipt of notification that the regulation requirements are not satisfied, the applicant may request a hearing. The hearing must be held within seven (7) days of receipt of the request, and a determination must be rendered within three business days of the hearing.

SECTION 25. Tennessee Code Annotated, Section 48-101-513, is amended by deleting subdivisions (g)(2) and (3) and renumbering the remaining subdivision accordingly.

SECTION 26. Tennessee Code Annotated, Section 48-101-513(g)(4)(C), is amended by deleting the words "twenty-four (24) hours" and by substituting instead the words "seven (7) days".

SECTION 27. Tennessee Code Annotated, Section 48-101-513, is amended by deleting subsection (h) in its entirety.

SECTION 28. Tennessee Code Annotated, Section 48-101-513(i), is amended by deleting the words "twenty-four (24) hours" and by substituting instead the words "seven (7) days".

SECTION 29. Tennessee Code Annotated, Section 48-101-513, is amended by deleting subsection (j)(1) in its entirety and by substituting instead the following:

(1) A paid solicitor shall be responsible for complying with, or for causing compliance with, each of the following requirements:

(A) Prior to orally requesting a contribution, or contemporaneously with a written request for a contribution, it shall be clearly and conspicuously disclosed at the point of solicitation the name of the paid solicitor as on file with the division and that the solicitation is being conducted by a "paid solicitor".

(B) In the case of a solicitation campaign conducted orally, whether by telephone or otherwise, a written confirmation shall be sent to each person who has contributed or pledged to contribute, within five (5) days after that person has been solicited, which shall include a clear and conspicuous disclosure of the information required by paragraph (A) of this subsection.

(C) It shall not be represented that tickets to events will be donated for use by another, unless the following requirements have been met:

(1) The paid solicitor shall have commitments in writing, from charitable organizations stating that they will accept donated tickets and specifying the number of tickets they are willing to accept; and

(2) No more contributions for donated tickets shall be solicited than the number of ticket commitments received from charitable organizations.

SECTION 30. Tennessee Code Annotated, Section 48-101-513(j)(2), is amended by deleting the words “one-year” and by substituting the words “three-year” to the first sentence thereof.

SECTION 31. Tennessee Code Annotated, Section 48-101-513(j)(3), is amended by deleting the words “No more than five (5) days after” and by substituting the words “Prior to” in the first sentence thereof.

SECTION 32. Tennessee Code Annotated, Section 48-101-513(j)(3), is amended by deleting the words “seventy-two (72) hours” and by substituting instead the words “seven (7) days”.

SECTION 33. Tennessee Code Annotated, Section 48-101-513, is amended by deleting subsection (m) in its entirety.

SECTION 34. Tennessee Code Annotated, Section 48-101-517, is amended by deleting the word “Fees” and by substituting instead the word “Funds”.

SECTION 35. Tennessee Code Annotated, Title 48, Chapter 101, Part 5, is amended by adding a new section thereto, as follows:

Section 48-101-519. (a) No commercial co-venturer shall conduct any charitable sales promotion in Tennessee on behalf of a charitable or civic organization unless the charitable or civic organization is duly registered or granted the appropriate exemption.

(b) Prior to any charitable sales promotion in Tennessee, the commercial co-venturer shall have a written agreement with the charitable or civic organization on whose behalf the charitable sales promotion is to be conducted. Such agreement shall be signed by an authorized representative of the commercial co-venturer and two officers of the charitable or civic organization.

(c) The commercial co-venturer shall maintain all records in connection with the charitable sales promotion for a period of three years after the end date of the charitable sales promotion. All such records shall be made available to the division upon request.

SECTION 36. Tennessee Code Annotated, Section 48-101-521, is amended by deleting such section in its entirety.

SECTION 37. Tennessee Code Annotated, Section 48-101-506(b)(1), is amended by deleting subdivision (B) in its entirety and by substituting instead the following language:

(B) The secretary may require, by regulation, a copy of any and all forms required to be filed by the organization with the United States Internal Revenue Service, and any other information the secretary deems appropriate to substantiate how funds were raised and spent by the organization.

SECTION 38. Tennessee Code Annotated, Section 48-101-507(a)(3), is amended by deleting the language "under oath or affirmation".

SECTION 39. This act shall take effect July 1, 2007, the public welfare requiring it.

PASSED: June 7, 2007



RON RAMSEY
SPEAKER OF THE SENATE



JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 26th day of June 2007



PHIL BREDESEN, GOVERNOR